

Planning Commission Report

To: City Council

From: Planning Commission

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Date: March 23, 2016

File Numbers: LAND-2015-02282

Title: Amendments to the Zoning Code for Retail Marijuana

**Planning
Commission**

Recommendation: Approval

**Recommended
Action:** Adopt amendments to the Redmond Zoning Code as shown in Attachment A.

Summary: The applicant requested an amendment to the Zoning Code to allow retail marijuana stores in Redmond. No specific amendment was identified by the applicant at the time of application in Spring 2014, however it was anticipated the applicant would work with staff to identify a detailed proposed amendment.

The Planning Commission recommends allowing retail marijuana in the Manufacturing Park (MP) zone only with the state mandated 1,000' buffer for schools and playgrounds, a 250' buffer from all other uses requiring a buffer, requiring a 250' buffer from private recreation facilities, requiring a 1,000' buffer from other educational

facilities such as Digipen which are similar to schools, requiring 1,000' feet of separation between retail establishments, limiting the number of stores to 2 for the first 5 years, and review and evaluation in 5 years.

**Reasons the
Proposal should
be Adopted:**

The recommended amendments to the Redmond Zoning Code should be adopted because:

- The proposal will provide for sufficient area to locate retail marijuana stores and provide access to legal marijuana and marijuana products within Redmond;
- The proposal is consistent with the Comprehensive Plan, because it will provide opportunities for a land use - marijuana retail stores - better suited for locations outside of Downtown and Overlake, consistent with policy LU-62; and
- The proposal will support public safety, and support compatibility with other land uses and services within the City.

Recommended Findings of Fact

1. *Public Hearing and Notice*

a. Public Hearing Date

The Planning Commission held a public hearing on January 27, 2016. The Commission closed the oral portion that evening and kept the written portion open until the Commission concluded deliberations.

b. Notice

The public hearing was published in the Seattle Times. Public notices were posted in City Hall and at the Redmond Library. Notice was also provided by including the hearing in Planning Commission agendas and extended agendas that are distributed to various members of the public and various agencies, and posted on the City's web site. The City publicized a press release in advance of the public hearing and notified parties of record. Courtesy notice was mailed to property owners and tenants in the proposed Manufacturing Park Overlay in the Sammamish Valley neighborhood recommended by the Technical Committee.

2. Public Comments

Fifty-six people testified at the public hearing. Comments are summarized below. The meeting minutes for the January 27, 2016, Planning Commission meeting including public testimony are shown in Attachment B.

Suitability of Proposed Overlay

Some testimony noted traffic issues in and around the proposed Manufacturing Park Overlay would make access difficult, and that the City has no immediate plans for road improvements in the area.

Exposure to Children and Youth

Access to marijuana for children and youth was mentioned by multiple people. There was concern that allowing retail marijuana stores in Redmond would both increase direct youth access as well as lead to children being more curious about marijuana.

General Opposition

Multiple people expressed opposition to marijuana businesses in general and retail marijuana stores in Redmond in particular, and some stated they preferred to ban retail marijuana stores.

Proximity to Residential Areas

Some people noted that in some cases residential areas are adjacent to or mixed with business areas, and that retail marijuana stores should be kept away from residential areas.

Stores in Other Cities

Some people noted there are retail marijuana stores in Kirkland, Bellevue, and Issaquah which are generally within a short drive of Redmond, reducing the need for a store in Redmond.

Legal Requirements

Several people pointed to state laws and rules concerning marijuana production, processing, and retailing and noted that marijuana is very heavily regulated. The state Liquor and Cannabis Board conducts many inspections to ensure the integrity of the system.

Alcohol

Some people noted that alcohol is as large a problem as marijuana. Others noted that marijuana should be treated the same as alcohol, e.g. regulated, taxed, and with a similar retail distribution system.

Community Character

Several people stated their belief that retail marijuana stores do not comport with Redmond's community character, emphasizing a family-friendly environment, high educational achievement, well-paying skilled jobs, and a desirable community in which to live.

Trails

Several people noted that trails in Redmond, including the East Lake Sammamish Trail, Central Connector, and Sammamish River Trail, are heavily used by children and youth and should therefore have a buffer.

I-502 Vote and Timing

Several people stated the vote on Initiative 502 was in 2012 and the marijuana system in Washington has been in place since late 2013, so additional delay in providing opportunities for retail marijuana stores is not acceptable. Several people cited the vote on I-502, with some speaking to the support that indicates for a change in zoning for retail marijuana and others commenting that they voted for I-502 in support of directing law enforcement efforts to other crimes, not to support stores in Redmond.

Public Notice

Some people asked whether appropriate notice for the public hearing had been provided, and asked that notice be sent to all affected property owners in the future.

Smoke

Several people identified marijuana smoke as a potential negative impact resulting from greater access to marijuana.

Tax Revenue

Some people state the tax revenue the City would potentially receive from retail marijuana stores should not be a reason to allow these stores, and that the potential revenue does not offset the negative impacts of retail marijuana stores.

In addition to the public testimony at the public hearing, 302 emails concerning this topic were received. General themes from the emails are shown below. The emails are shown in Attachment C.

- Opposition to buffer reduction
- Concerns about stores in the General Commercial zone
- Concerns about stores in the Manufacturing Park zone
- General opposition to retail marijuana stores in Redmond
- Some support for retail marijuana stores and the new marijuana industry
- Concerns about youth access
- Support for Technical Committee Recommendation
- Concern about the compatibility of retail marijuana stores with Redmond's community character.

City staff also sought comment via an on-line questionnaire. This questionnaire collected 2,217 total responses, of which 1,619 were from unique IP addresses. For these responses, 85 percent favored buffers of three or more football fields in length, 76 percent preferred that retail

marijuana stores not be located in Redmond, and 72 percent preferred a minimum separation between stores. The summary is included in Attachment C.

Recommended Conclusions

1. *Key Issues Discussed by the Planning Commission*

The Planning Commission considered many issues regarding the proposed amendments. Key issues discussed by the Planning Commission are summarized below. Attachment D includes the Planning Commission's issues matrix.

Statutory Basis for Regulations

Commissioners discussed the voting results and ballot title for I-502, and how the title makes no reference to retail marijuana stores. Commissioners also discussed the City's options regarding regulation of retail marijuana, highlighting the state Attorney General's Opinion regarding a possible ban and the City's power to enact reasonable zoning regulations. Commissioners discussed the changes to state law by the state legislature and Liquor and Cannabis Board such as a local option to reduce buffers from some uses, the increase in license allocations to Redmond, integration of recreational and medical marijuana, and how these changes affect retail marijuana compared to the original I-502 language.

Whether a Change to Zoning is Warranted

Commissioners discussed whether a change to the City's retail marijuana regulations is warranted and why or why not. The Commission majority believed a change is needed and noted that the City adopted its current regulations in 2014, and that circumstances have changed since then. These Commissioners cited that retail marijuana stores are a legal business in Washington state, the majority of Redmond residents supported I-502, a lack of evidence relating to potential adverse impacts, and tax revenue associated with marijuana retail stores. The reasons provided by the minority to not increase opportunities for retail marijuana stores are that the vote on I-502 indicates support to legalize marijuana though not necessarily to locate stores in Redmond and that the Commission has heard significant opposition to allowing retail marijuana stores to locate in Redmond. In addition, reasons cited for the Commission minority opinion include that retail marijuana stores in Bellevue, Kirkland, or Issaquah are a short drive away and that while marijuana sales and use are legal under Washington law, it remains illegal under federal law.

Suitability of the Urban Centers

Commissioners discussed Comprehensive Plan policies concerning the Urban Centers and the suitability of Downtown and Overlake for retail marijuana stores. While some Commissioners commented that the policies may be vague, all the Commissioners concurred that the City's urban centers should not be included at this time as locations for retail marijuana stores. Their reasoning included the need for more experience with the potential impacts of retail marijuana stores in the

community and that they did not see a major need to provide for potential retail marijuana locations in Downtown or Overlake since their recommendation included other locations.

Suitability of Other Zones

Commissioners discussed the suitability of other zones for retail marijuana stores, including specifically the Business Park (BP), General Commercial (GC), and Manufacturing Park (MP) zones. Commissioners discussed the characteristics of each zone, and staff provided background on the general development pattern of the BP zone. The Commissioners commented that the BP zone is not an appropriate location for retail marijuana stores due to this development pattern.

The Commission majority believed that the Technical Committee's recommendation to create a MP overlay in the Sammamish Valley neighborhood would result in too much concentration of retail marijuana stores in one area. These Commissioners concurred in recommending that retail marijuana stores be allowed in all MP zones. Commissioners discussed the plans for the Marymoor subarea of the Southeast Redmond Neighborhood, which call for adding housing near the future light rail station to what is today a manufacturing area and changing the zoning from MP to a series of design districts. The Commission majority concurred that there is an ongoing process underway for the Marymoor subarea and that since the zoning is currently MP, it should not be excluded from the area recommended for retail marijuana stores.

Regarding the General Commercial (GC) zone, the Commissioners discussed whether this is an appropriate location for retail marijuana stores, considering the location of GC zones in Redmond and that some are close to residential zones, the types of uses in these zones including some that are youth oriented and that there is relatively little GC zoning compared to other zones. Ultimately, the Commissioners agreed to not include the GC zones as a recommended area for retail marijuana stores.

What Uses Should be Buffered and by How Much

Commissioners discussed the list of uses requiring a buffer in state law, and also discussed potentially requiring a buffer from trails and from private recreational businesses. Regarding trails, Commissioners noted that trails serve dual purposes as transportation and recreation. In particular, a trail such as the SR-520 trail serves primarily as a commute/transportation facility, while other trails such as the East Lake Sammamish Trail might serve more recreational users. Commissioners discussed how trail users typically do not linger in one area of a trail, but are moving along the trail, making it less necessary to buffer trails. For these reasons, the Commissioners did not recommend requiring a buffer from trails.

Regarding privately owned recreation businesses, Commissioners noted public comment had highlighted the large number of youth and children who use some

facilities such as Arena Sports. Some Commissioners noted that it can be more difficult to define what is included in privately owned recreation business and expressed concern about the impact to potential locations for marijuana retail stores given the large number of privately owned recreational facilities in Redmond. Other Commissioners noted that many privately owned recreational businesses include youth-oriented facilities, that a reasonable person looking at the state list of uses requiring a buffer might interpret that list to include private recreational facilities and that a workable definition can be developed. Ultimately, the Commissioners concurred on a recommendation to require a buffer from private recreational businesses.

Regarding other educational facilities, Commissioners received information regarding the educational programs offered at the Digipen campus in conjunction with the Lake Washington School District. This includes approximately 100 high school-age children in a day long, Monday to Friday program along with approximately 60 home-schooled children who attend during a portion of the week, with the possibility of near-term expansion of the home schooling program. Commissioners discussed how this type of education use is similar to a school because the children are present during similar hours to schools, are in the same age group, and the program is in conjunction with the school district. Commissioners concluded that these types of educational facilities should be treated like schools and have a 1,000 foot buffer.

Commissioners also discussed various buffer distances, with some noting the difference between a large and small buffer may not make a substantial difference to mitigating potential impacts. Commissioners discussed possible approaches to setting a buffer distance, including starting small and potentially making buffers larger if necessary, while other Commissioners favored the opposite approach of maintaining the 1000 foot larger buffers and making them smaller if appropriate. Ultimately, the Commission majority agreed to recommend a 250 foot buffer distance for all sensitive uses that do not require a 1000 foot buffer per state law. The Commission minority did not support this recommendation, citing the overwhelming opposition to reducing buffer distances and citing retail marijuana stores in Redmond and the available access to stores in other nearby communities.

Separation and Number of Stores

Commissioners discussed separation of retail marijuana stores and noted it may be desirable to use separation to avoid creating a “greenlight district” where multiple marijuana uses are concentrated in one area. Commissioners discussed how other cities, including Bellevue and Issaquah, require stores to be at least 1,000 feet apart from each other. Commissioners discussed the number of retail marijuana stores and noted the original license allocation for Redmond was 2 licenses, which has been expanded to 4 recently. Commissioners also discussed limiting the number of retail marijuana stores to avoid creating a concentration of these stores and to allow for time to review and analyze potential impacts from these stores (see below for more discussion). The Commissioners concurred on these provisions.

Review in 5 Years

Commissioners discussed the lack of definitive data regarding potential impacts of retail marijuana stores and how further review after a period of time could allow for a further discussion of potential impacts once more information is available.

Commissioners also discussed how any changes to regulations now could be reviewed in the future, so what is decided now can be adjusted later. The Commission recommended that the outcomes be reviewed in five years.

The Planning Commission Issue Matrix is shown in Attachment D.

2. *Recommended Conclusions of the Technical Committee*

The recommended conclusions in the Technical Committee Report (Attachment E) should be adopted as conclusions.

3. *Planning Commission Recommendation*

The Planning Commission voted 3-1 at its March 9, 2016, meeting to recommend allowing retail marijuana in the Manufacturing Park (MP) zone only with the state mandated 1,000' buffer for schools and playgrounds, a 250' buffer from all other uses requiring a buffer, requiring a 250' buffer from private recreation facilities, requiring a 1,000' buffer from other educational facilities such as Digipen which are similar to schools, requiring 1,000' feet of separation between retail establishments, limiting the number of stores to 2 for the first 5 years, and review and evaluation in 5 years.

4. *Planning Commission Minority Reports*

Commission minority reports are included as Attachment F.

List of Attachments

Attachment A: Recommended Amendments to the Zoning Code

Attachment B: Planning Commission Meeting Minutes for January 27, 2016

Attachment C: Public Comments and Summary of Questionnaire Results

Attachment D: Final Planning Commission Issue Matrix

Attachment E: Technical Committee Report with Exhibits

Attachment F: Commission Minority Reports

Robert G. Odle, Planning Director

Date

Scott Biethan, Planning Commission Chairperson

Date

Approved for Council Agenda

John Marchione, Mayor

Date